

**TOWN OF SULLIVAN
ZONING BOARD OF APPEALS
JUNE 9, 2022
7:00 P.M.**

A regular meeting of the Zoning Board of Appeals of the Town of Sullivan was convened at the Town Office Building by Chairman Steve Durfee at 7:05 P.M.

Those in attendance for the meeting were: Chairman Steve Durfee, Members Terry Manning, Michael Keville, Bryan Bendixen and Attorney for the Board Stacy Marris.

Absent: Member Clifford Reals

Also present: Larry Ball, Building/Codes Inspector

PUBLIC HEARING

**7:00 P.M. – MARY DRISCOLL: AREA VARIANCE (2705 BURLINGAME RD.,5.83-2-6.1)
SHED (160 SQ.FT.) 3 FEET FROM SIDE PROPERTY LINE.**

Mary Driscoll appeared requesting a variance to have a shed 3 feet from the side property line. She stated the shed would make property look better if it was 3 feet off property line instead of required 10 feet. Member Keville questioned where this would be placed in comparison to the lake. Chairman Steve Durfee raised the question of when does a shed become a garage, as this shed would be 160 sq. ft.

Michael Chalupa, neighbor at 2703 Burlingame Rd. appeared and stated the main house is already off from the Zoning setback requirements and he does not want the shed near his property line. He requested that the shed be on the opposite side of the property, but ultimately said he would be fine if it is 4 to 7 feet off of the line.

Building/Codes Inspector Larry Ball discussed front yards on the lake and that there are no front yard setbacks. Member Manning talked about deed covenants, but it was noted that there are no deed covenants. Chairman Durfee stated that the Board received letters from two other neighbors, who have some concern about the closeness of the shed.

The Madison County Planning Board returned the application for Local Determination and stated the shed should be placed in a way that requires the least reduction from the Town's required side-yard setbacks.

The Town of Sullivan Planning Board sees no adverse Town-wide effect in granting this request and asks the ZBA to research whether accessory sheds are permitted on the waterfront portion of these lots.

No one else spoke for or against the application and Member Keville made a motion to close the public hearing, seconded by Member Manning and unanimously passed.

**BARBARA AGANS-SWEENEY: AREA VARIANCE (COULTER COVE RD., 11.24-1-3.2)
REQUESTING RELIEF FOR ROAD SETBACK FOR
ATTACHED GARAGE TO NEW HOME.**

Barbara Agans-Sweeney re-appeared from the May 12, 2022 meeting. The Board had requested her to stake where the garage would be so that all Board members could go to check this prior to making a decision. Road frontage is relief required to build a lake house with garage.

Dave Robbins, neighbor on the West side at 2485 Coulter Cove Rd., appeared with concerns of where the road starts. He is concerned about safety with the shared driveway and a telephone pole that might be in the way. He is most concerned because of his kids and that due to the curve of the road and where the garage would be, cars might not see children playing. He shared these concerns at the May 12, 2022 meeting also.

The Applicant noted that the curve seems to actually slow cars down so cars would not be moving as quickly near the garage.

Chairman Durfee asked about open space and Member Manning thinks a tree may need to come down (he is worried about space between garage and road and issues that may arise because of lack of space). Member Keville asked Board Attorney if in granting a variance the Board can put conditions on the variance. Attorney Marris stated yes as long as it is a reasonable limitation.

The Madison County Planning Board returned the application for Local Determination and stated this request is substantial, and that NYS has strict criteria in place for ZBAs to grant an area variance, which the applicant does address. Given the deed constraint and surrounding community character, it does not appear that the construction of the new house will create negative county-wide or intermunicipal impact.

The Town of Sullivan Planning Board sees no adverse Town-wide effect in granting this request. Historically, attached garages along the lakefront have been constructed relatively close to the road. The Coulter Cove area demonstrates this condition.

No one else spoke for or against the application and Member Keville made motion to close the public hearing, seconded by Member Bendixen and unanimously passed.

**PATRICK GILLETTE: AREA VARIANCE (147 MADISON AVE., 11.29-2-17) REQUESTING
RELIEF FROM FRONT YARD SETBACK TO ALLOW A DECK.**

Patrick Gillette, applicant, appeared. He purchased the property 2 years ago and is requesting a variance to put a deck on front of house to use door and have view of the lake. The deck will be 19 feet from the property line.

The Madison County Planning Board returned the application for Local Determination.

The Town of Sullivan Planning Board sees no Town-wide adverse impact in granting this variance.

No one spoke for or against the application and the public hearing was closed.

**STEPHEN BREAN: SEVERAL VARIANCES REQUESTED (121 WATER ST., 10.58-1-8)
REQUESTING RELIEF ON MULTIPLE LOTS.**

Stephen Brean appeared with his Attorney Stephen Etoll from Hancock Estabrook for several variances on his property at 121 Water St. The first is 46% relief for required lot size of 40,000 sq.ft. at Lot #1. Attorney Etoll explained what Mr. Brean would like to do with the streets and discussed the concept of "paper streets." They presented a 1925 subdivision map of the area in question, Pleasantview Place, and noted Mr. Brean would like to develop Willow Drive, School Street and continue Water Street, which already partially exists. They said these are all legal rights of way.

Member Manning noted that the area in question has several no trespassing signs and that because of this he was unable to view the area in question. Mr. Brean explained that he understands it is a very private neighborhood and will continue to keep it as such if the neighbors wish, but aims to make the sentiment of the signs less harsh.

Mr. Brean turned the Board's attention to the Moore survey, which notes the existence of the rights of way Mr. Brean wishes to "revive." Discussion was mostly about Water Street and that he wishes to build it out, 148 ft. in length and 16 ft. wide to 2.7 acres. Water St. would split Lot #2 and #3.

Discussion then turned to New York State Town Law § 280-a and paper streets. It was noted that these streets are actually private rights of way that Mr. Brean wishes to develop. This is because Mr. Brean's proposed subdivision would not have the requisite road access for emergency vehicles, but Mr. Etoll opined that Town Law § 280-a may be applicable.

Member Keville discussed Town Law § 280-a in regard to paper roads. Building/Codes Inspector Larry Ball said the road is not meeting the Town Road standards. Member Bendixen asked if the road is not considered a road, if that would still meet emergency vehicle access requirements. Member Keville asked if any of the rights of way would count as a road. Larry Ball said that the variance must be granted for a private road to meet the requisite road requirements.

Stephen Brean explained that the road will be to fire truck specifications: the road will be 16 ft. wide, with 2 access points for emergency services. He stated that the roads will be built to withstand the weight of firetrucks and that he consulted with an engineer, who expressed this plan is sufficient. No engineer's report was offered; however, he stated that the neighbors use Willow and Water Streets. He wants to improve the road access, but the neighbors have objected to this.

Joe Piraino of 107 Water St. spoke. He owns property on Water Street, which he says is really a driveway. It is 20 ft. paved with 10 ft. wide fire lane. He is worried about traffic and doesn't want a wide road off his property.

Neighbors present raised a concern that at one point, OCWA installed a city water pump on the property in question and the neighbors were told it could never be built on. This issue should be resolved by the applicant.

Member Keville stated private road means it was not dedicated to the Town. Chairman Durfee questioned paper/private road that lets public access the road as an easement. Member Keville asked why the road would need to connect to School St. Mr. Brean stated this was because of fire codes and turn arounds.

Ricky Paone of 105 Willow Rd. is concerned about Sand Street (which is also shown on the 1925 subdivision map) and explained Mr. Brean drove on his yard in what he described as a malicious way.

Member Keville asked when is such behavior is trespassing if Ricky Paone's property is the paper road?

Nicholas Wehrlin of 107 Willow Rd. also asked about Sand Street and Mr. Brean said he cannot say whether or not he intends to develop that road ("I can't answer that at this time").

Member Keville again emphasized if this variance is not approved and the roads remain grass it could be trespassing.

Eric Lojba of 1995 Route 31 asked if the EAF form will be done after the public hearing is closed. Ricky Paone asked about the EIS form.

Eileen Mason owns the property at 122 Water St. and she stated she is opposed to the variances.

Surveyor Moore, who did the survey for Mr. Brean, stated his opinion to the Board that the roads present on the map are roads everyone is entitled to use, whether developed or not.

The Madison County Planning Department's referral response states that the proposed request for an area variance for lots created as part of a 3 lot subdivision "would have no County wide or intermunicipal impact". They reiterated that the "applicant indicated that the intent is to ultimately build single family homes on some of these lots and it is important to note that significant portions of the property falls within the 100 year flood zone. Any resulting development in the flood zone would be required to conform to the Town's floodplain regulations."

The Town of Sullivan Planning Board issued comments to the Board on the project. They note "the applicant wishes to divide this property into three residential building lots" and that "[a]t some point and manner these lots may be sold (developed or not) to outside parties and require subdivision of this parcel." The Town Planning Board further states, the "[c]urrent Town Subdivision Law requires that the Planning Board can entertain subdivision applications only on dedicated Town, County or State highways. This parcel has only one lot that meets that requirement. There is purported access to the remaining lots by private access. The

underlying issue to these numerous variance requests is to provide a pathway for the developer to fulfill his plans.”

Ultimately, the Town Planning Board provided that it “cannot offer a definitive opinion at this time. This is a complex legal issue that needs to be sorted out. The ramifications of allowing such development could have far reaching Town impacts due to the numerous “paper streets” that exist along the Oneida Lake frontage. These streets that exist on maps (file/unfiled) as long as 100+ years ago were conceived in a time of seasonal use at best and without thought and anticipation of today’s public safety or maintenance equipment. Should development as proposed by these applications proceed, many questions as to continued maintenance and oversight will need to be discussed.”

A motion was duly made by Member Keville, seconded by Member Manning and unanimously passed to table the public hearing and decisions until next meeting, July 14, 2022.

NEW BUSINESS

Chairman Durfee said Bryan Bendixen is leaving the Board and this would be his last meeting.

OLD BUSINESS

MARY DRISCOLL: AREA VARIANCE (2705 BURLINGAME RD., 5.83-2-6.1) SHED (160 SQ.FT.) 3 FEET FROM SIDE PROPERTY LINE.

The Board declared itself lead agency, the application to be a Type II action and issued a Negative Declaration for purposes of SEQR.

The Board jointly reviewed the criteria for granting area variance. The Board reasoned that yes undesirable changes would occur in the neighborhood as the request is very close to the property line. The benefit sought by the applicant could be achieved by a feasible alternative, but not in a way desirable to the applicant: the applicant could move the shed farther away from the property line. The requested variance is substantial proportionally. No adverse environmental impacts were identified. The alleged hardship is self-created but this is not a determining factor. On motion of Member Manning, seconded by Member Keville, the Board approved a variance with conditions, with all four members present voting to grant the variance, as the benefit to the applicant outweighs any detriment to the neighborhood. The Board granted a setback variance of one foot from the side property line to erect a 160 sq. ft. shed, subject to the condition that the shed be 7 ft. from the property line and parallel to the property line.

BARBARA AGANS-SWEENEY: AREA VARIANCE (COULTER COVE RD., 11.24-1-3.2) REQUESTING RELIEF FOR ROAD SETBACK FOR ATTACHED GARAGE TO NEW HOME.

The Board declared itself lead agency, the application to be a Type II action and issued a Negative Declaration for purposes of SEQR.

The Board jointly reviewed the criteria for granting an area variance. The Board reasoned that no undesirable change would occur in the neighborhood as the structure is behind the existing hedge row. The benefit sought by the applicant could not be achieved by a feasible alternative due to deed restrictions of lake side setbacks. The requested variance is substantial but not a determining factor. No adverse environmental impacts were identified as the new building is in accordance with current neighborhood. The alleged hardship is self-created, as a smaller garage could be built. On motion of Member Keville, seconded by Member Bendixen, the Board approved a variance with conditions, with three members voting to grant the variance and one member opposed to granting the variance, as the benefit outweighs any detriment to the neighborhood. The Board granted a setback variance of 4.5 ft. from the road property line to build an attached garage to a new home subject to the condition that the area between the south side of garage and the road must remain a green area.

PATRICK GILLETTE: AREA VARIANCE (147 MADISON AVE., 11.29-2-17) REQUESTING RELIEF FROM FRONT YARD SETBACK TO ALLOW A DECK.

The Board declared itself lead agency, the application to be a Type II action and issued a Negative Declaration for purposes of SEQR.

The Board jointly reviewed the criteria for granting area variances. The Board reasoned that no undesirable change would occur in the neighborhood as request will have no major impact. The benefit sought by the applicant could be achieved by a feasible alternative, but the deck would not have impact. The requested variance is substantial but not a determining factor. No adverse environmental impacts were identified. The alleged hardship is self-created but this is not a determining factor. On motion of Chairman Durfee, seconded by Member Bendixen, the Board approved a variance, with all four members present voting to grant the variance, as the benefit to the applicant outweighs any detriment to the neighborhood. The Board granted a setback variance of 12 ft. from the front yard property line to build a 15 ft. x 27 ft. freestanding deck.

STEPHEN BREAN: SEVERAL VARIANCES REQUESTED (121 WATER ST., 10.58-1-8) REQUESTING RELIEF ON MULTIPLE LOTS.

A motion was duly made by Member Keville, seconded by Member Manning and unanimously passed by the Board to table the public hearing and decision to July 14, 2022 meeting.

APPROVAL OF MINUTES

A motion was duly made by Member Bendixen, seconded by Member Manning and unanimously passed by the Board approving the minutes of May 12, 2022.

ADJOURNMENT

A motion was duly made by Member Bendixen, seconded by Member Keville and unanimously passed to adjourn the meeting at 9:00 P.M.

Respectfully Submitted
Jeri Rowlingson, Secretary